

REMARKS

This reply responds to the Final Office Action mailed on October 29, 2009.

Claim 1 is amended, no claims are canceled, and no claims are added; as a result, claims 1-45 are now pending in this application. The amendments to the claims are fully supported by the specification as originally filed. No new matter is introduced. Applicant respectfully requests reconsideration of the above-identified application in view of the amendments above and the remarks that follow.

Claim 1 is amended to further clarify this claim. Support for the amendments to claim 1 can be found in the specification, for example, at page 6, line 17 – page 7, line 9.

Interview Summary

The Applicant thanks Examiner Phillip H. Nguyen for the telephone interview held on 15 October 2009 with the Applicant's representative David R. Cochran. In the examiner interview, proposed amendments for allowance of various claims of the instant application was discussed. The proposed amendments were suggested in view of a new reference identified by Examiner Nguyen. However, Applicant's representative stated that he was unable to review the new reference with respect to the claims in the timeframe before the Examiner was to provide an Office Action. Applicant suggested that the Examiner issue the Office Action so that the Applicant could review the new reference and respond accordingly to the proposed amendment. However, the resulting Office Action does not base the rejections on the new reference and appears to contradict the proposed Examiner amendment.

Specification Objections

The amendment filed 3/17/2008 is objected to under 35 U.S.C. 132(a) because it allegedly introduced new matter into the disclosure. Applicant traverses these grounds of objection of the specification based on previous amendments to claims in the instant application.

The claims, as previously amended, are supported by the specification. In the Office Action, the Examiner states:

1. The phrase "according to embodiment of the invention, when an application program is launched, the computer system 100 loads only the object

module that is currently needed for program execution” cited by the application does not indicate or inherently teach “loading a first set of instructions . . . without loading the third set of instructions into the execution unit and without loading the second set of instructions into the execution unit.” This expression only indicates the computer system loads all the object modules that are needed by the program execution. According to this expression, the second and third sets are the object modules that are not needed for program execution and therefore never get loaded into the execution unit for execution. (*underlining added*)

Applicant submits that “According to this expression, the second and third sets are the object modules that are not needed for program execution and therefore never get loaded into the execution unit for execution” is a limitation added by the Examiner to the specification. The expression “computer system 100 loads only the object module that is currently needed for program execution” includes the embodiment in which, when loading module one, modules two and three of the Examiner’s example are needed but are not needed currently with loading module one into the execution unit. See, for example, Figure 3 of the instant application.

Page 6 and 7 discusses a non-limiting embodiment of operation of a computer system using Figure 1. Executable module, EOM, is loaded into execution unit 106 including a reference to instructions within loader unit 104, where the reference, rather than the instructions, is included with the loading of EOM into execution unit 106, where subsequently object module, OM, is loaded at runtime. See last paragraph page 6.

The Examiner further states “the limitations of claim 1 are contradicting themselves because claim 1 indicates that second and third sets are not needed (i.e. without loading but then it also indicates that the second and third sets of instructions are executed (i.e. loaded for execution). Claim 1 recites, in part, “without loading the third set of instructions into the execution unit and without loading the second set of instructions into the execution unit when loading the first set of instructions” (*underlining added*). The Examiner has not considered the complete limitation in claim 1. Claim 1 also recites “loading the second set of instructions into the execution unit.” See non-limiting example embodiment in last paragraph page 6 and first paragraph page 7. Further, claim 1 does not limit execution of the third set of instructions to

execution in the execution unit. See non-limiting example embodiment in last paragraph page 6 and first paragraph page 7.

The Examiner further states “[f]or examination purpose, examiner assumes that the second and third sets of instructions are loaded for execution.” This is an improper addition of limitations to the claims. Applicant notes that claim 1 includes “loading the second set of instructions into the execution unit.” However, as noted in a non-limiting embodiment as discussed on page 6, last paragraph and page 7, first paragraph, a loader can have instructions to resolve an unresolved reference. In the example embodiment discussed in these pages, loader instructions are not necessarily loaded into an execution unit but are interrelated with EOM and OM.

For at least the reasons stated above. Applicant submits that no new matter was introduced by the previous amendments to the claims.

Applicant respectfully requests withdrawal of the objections to the specification (claims), and reconsideration and allowance of these claims.

First § 112 Rejection of the Claims

Claims 1-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicant traverses these grounds of rejection of these claims for at least the reasons made of record.

Applicant notes that an Examiner analyzes claim limitations in a manner in which a claim is given its broadest reasonable interpretation consistent with the specification. However, Applicant notes that limitations cannot be read into a claim and that a claim must be taken as a whole during examination of the claim. It appears that the Examiner is adding requirements to the instant specification from the cited references.

As demonstrated above with respect to the specification objections, the element at issue with respect to claim 1, “without loading the third set of instructions into the execution unit and without loading the second set of instructions into the execution unit when loading the first set of instructions,” (*underlining added*) as recited in claim 1, is adequately described in the specification including, for example, page 6, line 5 – page 7, line 9, Figure 1, page 14, lines 1-8, and the specification as a whole. In addition, these sections of the specification provide enablement for those skilled in the art upon studying Applicant’s disclosure. Further, claims 2-

45 also recite similar functionality or capability of loading the first set of instructions without loading a third set of instructions into the execution unit and without loading a second set of instructions into the execution unit when loading the first set of instructions.

The Examiner has not explained why he believes that the sections of the specification previously referenced by the Applicant do not comply with the written description. The Examiner's response on page 4 of the Office Action and item 9 on page 6 do not address the sections of the specification previously referenced by the Applicant that demonstrates that the Applicant, at the time of the invention was filed, had possession of the claimed invention and thus satisfies the written description.

Applicant submits that claims 1-45 satisfy 35 U.S.C. § 112, first paragraph.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 1-45, and the passing of these claims to issue.

Second § 112 Rejection of the Claims

Claims 1-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant traverses these grounds of rejection of these claims for at least the reasons made of record.

In the Office Action, it is stated that "[i]nstructions must be loaded into the execution unit to be executed." This statement from the Office Action either adds limitations not recited in claim 1 or does not consider claim 1 as a whole. The Examiner appears to be requiring that the structure and operation of the embodiments in the instant application comport to the cited references.

Further, the Examiner states that " 'without loading the third set of instructions into the execution unit and without loading the second set of instructions into the execution unit when loading the first set of instructions' is unclear and contradicting with other claimed limitations of the claims. Instructions must be loaded into the execution unit in order to be executed." (*underlining added*) The phrase without loading the second set of instructions into the execution unit when loading the first set of instructions does not state that the second set of instructions are not loaded, but rather that the first set of instructions and the second set of instructions are not

loaded together into the execution unit. The phrase at issue does not contradict “executing instructions of the third set includes loading the second set of instructions into the execution unit” that is recited in claim 1. As shown in the non-limiting example on pages 6 and 7 of the specification, instructions can be executed without being loaded in the execution unit in an inventive embodiment disclosed in Applicant’s specification. It appears that the Examiner is requiring limitations contrary to an embodiment described and enabled in the specification.

Therefore, claim one is not indefinite, as proffered in the Office Action. In addition, claims 2-45 also recite similar functionality or capability of loading the first set of instructions without loading a third set of instructions into the execution unit and without loading a second set of instructions into the execution unit when loading the first set of instructions.

Applicant submits that claims 1-45 satisfy 35 U.S.C. § 112, second paragraph.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 1-45, and the passing of these claims to issue.

§ 102 Rejection of the Claims

Claims 1-2, 4-8, 17, 21-22, 24-26, 30-31, 33-37 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Szoke (U.S. 4,787,034). Applicant traverses these grounds of rejection of these claims for at the reasons made of record.

Applicant cannot find in Szoke a disclosure or a suggestion of a method comprised of the elements of claim 1 interrelated as recited in claim 1, taken as a whole. On page 5 of the Office Action, it is stated that

1. . . . Applicant is respectively advised that limitation from the specification cannot be brought into the claim . . .
2. . . . As explained above, the third set of instructions must be loaded by the computer system for program execution.
3. As explained above, the third set of instructions is loaded for execution because it is needed. Therefore, Szoke teaches the limitations of claim 7.
4. Szoke teaches at least in FIG. 1 that P11, P12, and linkage program are loaded. Although they are part of load module 100 but they are separated programs.

5. As explained above, FIG. 1 of Szoke teaches that P11, P12, and linkage program 130 are loaded and separated.

6. As explained above, the second and third sets of instructions are loaded, separate, and executed.

Applicant does not understand Item 1. A claim amendment can properly bring a limitation from the specification into a claim. Item 2 does not address the features of the “third set of instructions” as recited in claim 1 and supported in the specification. Items 4-6 regarding loading P11, P12, and linkage program are contrary to the elements of claim 1. Based on the analysis in the Office Action, Szoke is clearly structured and operates in a manner that does not disclose and does not make obvious the elements of claim 1, taken as a whole.

Therefore, Applicant respectfully submits that Szoke does not teach each and every claim element of claim 1, that Szoke does not teach the identical invention in as complete detail as is contained in claim 1, and/or that Szoke does not teach each and every claim element arranged as in claim 1. Thus, Applicant submits that claim 1 is patentable over Szoke. For at least reasons similar to those stated with respect to claim 1, Applicant submits that claim 30 is patentable over Szoke.

Applicant cannot find in Szoke a disclosure or a suggestion of a method that includes loading an executable object module, wherein the loading includes replacing an unresolved reference with a reference to a system module without loading instructions of the system module as recited in claim 7. In the above quote from the Office Action, Item 3 adds limitations to claim 7 from the cited reference, which is not proper. As shown in Szoke’s Figure 1, referenced in the Office Action, and discussed at column 2, lines 53-62, Szoke’s load module **LM-1** includes conventional programs **P11** and **P12** and program structure **110**. As shown in Szoke’s Figure 1, program structure **LM-1** includes linkage program **130**, which indicates that Szoke’s load module **LM-1** includes linkage program **130** and therefore linkage program is not separate from load module **LM-1**. In contrast, claims 7 recites that reference to a system module is placed in the executable object module without including instructions of the system module, where the system is used for loading compiled object modules that are separate from the executable object module, that is, the linking instructions that load the separately compiled object module when executing executable object module are separate from executable object module.

Therefore, Applicant respectfully submits that Szoke does not teach each and every claim element of claim 7, that Szoke does not teach the identical invention in as complete detail as is contained in claim 7, and/or that Szoke does not teach each and every claim element arranged as in claim 7. Thus, Applicant submits that claim 7 is patentable over Szoke. For at least reasons similar to those stated with respect to claim 7, Applicant submits that claim 36 is patentable over Szoke.

Applicant cannot find in Szoke a disclosure or a suggestion of an apparatus that includes a loader unit to find an executable object module in a storage unit and present the executable object module to an execution unit, where the loader unit is configured to replace the unresolved reference with a reference to a system module without loading instructions of the system module with the system module separate from the executable object module and the loader unit separate from the executable object module, as recited in claim 17. As shown in Szoke's Figure 1, referenced in the Office Action, and discussed at column 2, lines 53-62, Szoke's load module **LM-1** includes conventional programs **P11** and **P12** and program structure **110**. As shown in Szoke's Figure 1, program structure **110** includes linkage program **130**, which indicates that Szoke's load module **LM-1** includes linkage program **130** and therefore linkage program is not separate from load module **LM-1**.

Therefore, Applicant respectfully submits that Szoke does not teach each and every claim element of claim 17, that Szoke does not teach the identical invention in as complete detail as is contained in claim 17, and/or that Szoke does not teach each and every claim element arranged as in claim 17. Thus, Applicant submits that claim 17 is patentable over Szoke.

Applicant cannot find in Szoke a disclosure or a suggestion of an apparatus that includes a loader unit to load a first set of instructions into a memory unit, wherein the first set of instructions includes an unresolved reference to a second set of instructions, the loader unit to replace the unresolved reference with an address of a third set of instructions without the third set of instructions, the first set of instructions being different from the second set of instructions and the third set of instructions such that the loader unit is operable to load the first set of instructions without loading the third set of instructions and without loading the second set of instructions when loading the first set of instructions, as recited in claim 21.

Therefore, Applicant respectfully submits that Szoke does not teach each and every claim

element of claim 21, that Szoke does not teach the identical invention in as complete detail as is contained in claim 21, and/or that Szoke does not teach each and every claim element arranged as in claim 21. Thus, Applicant submits that claim 21 is patentable over Szoke.

Applicant cannot find in Szoke a disclosure or a suggestion of an apparatus that includes a loader unit to present an executable object module for execution, wherein the loader unit is configured to replace a symbolic reference with an address to a system module to link the executable object module and the separately compiled object module such that instructions of the loader unit are separate from the executable object module and the separately compiled object module, as recited in claim 26. As shown in Szoke's Figure 1, referenced in the Office Action, and discussed at column 2, lines 53-62, Szoke's load module **LM-1** includes conventional programs **P11** and **P12** and program structure **110**. As shown in Szoke's Figure 1, program structure **110** includes linkage program **130**, which indicates that Szoke's load module **LM-1** includes linkage program **130** and therefore linkage program is not separate from load module **LM-1**.

Therefore, Applicant respectfully submits that Szoke does not teach each and every claim element of claim 26, that Szoke does not teach the identical invention in as complete detail as is contained in claim 26, and/or that Szoke does not teach each and every claim element arranged as in claim 26. Thus, Applicant submits that claim 26 is patentable over Szoke.

Applicant respectfully submits that the analysis of the independent claims 1, 7, 21, 30, and 36 have not properly considered these claims as they are constructed. It appears that limitations have been added in the Office Action, where the limitations are contrary to the recited claims as supported by the specification. The fact that the claims as supported in the specification do not comport with the structure and operation of the cited references demonstrates that these claims are patentable over the cited references.

Claims 2 and 4-6, claim 8, claims 22, 24, and 25, claims 31 and 33-35, and claims 37 and 39 depend from independent claims 1, 7, 21, 30, and 36, respectively. Applicant submits that claims 2, 4-6, 8, 22, 24, 25, 31, 33-35, 37, and 39 are patentable over Szoke for at least the reasons stated above with respect to claims 1, 7, 21, 30, and 36. Further, in view of the additional features of each of these dependent claims, Applicant respectfully submits that these claims may be allowable for one or more reasons in addition to and/or in alternative to those

reasons identified above.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 1, 2, 4-8, 17, 21, 22, 24-26, 30, 31, 33-37, and 39, and the passing of these claims to issue.

First § 103 Rejection of the Claims

Claims 9, 14, and 43 were rejected under 35 U.S.C. § 103(a) as being obvious over Szoke. Applicant traverses these grounds of rejection of these claims.

Applicant cannot find in Szoke a disclosure or a suggestion of a method that includes replacing, in an executable object module, symbolic references with addresses to a loader subroutine without instructions of the loader subroutine in the executable object module, as recited in claim 12. Szoke relates to a method in which a first load module may include call programs to call programs in a second load module. As shown in Szoke's Figure 1, referenced in the Office Action, and discussed at column 2, lines 53-62, Szoke's load module LM-1 includes conventional programs P11 and P12 and program structure 110. As shown in Szoke's Figure 1, program structure 110 includes linkage program 130, which indicates that Szoke's load module LM-1 includes linkage program 130. In contrast, claim 12 recites that the linking instructions are in a loader subroutine separate from the executable object module where the method of claim 12 includes replacing symbolic references with addresses to the loader subroutine that is not included in the executable object module.

Therefore, Applicant submits that Szoke does not teach all the elements of claim 12. Thus, Applicant submits that independent claim 12 is patentable over Szoke in view of Sexton. For at least reasons similar to those stated above with respect to the independent claim 12, Applicant submits that claim 41 is patentable over Szoke. Further, in view of the features of this independent claim, Applicant respectfully submits that this claim may be allowable for one or more reasons in addition to and/or in alternative to those reasons identified above.

Claim 9, claim 14, and claim 43 depend from independent claims 7, 12, and 41, respectively. Applicant submits that claims 9, 14, and 43 are patentable over Szoke for at least the reasons stated above with respect to claims 7, 12, and 41. Further, in view of the additional features of each of these dependent claims, Applicant respectfully submits that these claims may

be allowable for one or more reasons in addition to and/or in alternative to those reasons identified above.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 9, 14, and 43, and the passing of these claims to issue.

Second § 103 Rejection of the Claims

Claims 3, 11, 13, 19, 23, 28, 32, 40, and 42 were rejected under 35 U.S.C. § 103(a) as being obvious over Szoke, in view of “Apple Developer Connection” (Apple Computer Inc., 2001). Applicant traverses these grounds of rejection of these claims.

Applicant submits that combining “Apple Developer Connection” with Szoke, as proffered in the Office Action, does not cure the deficiencies of citing Szoke with respect to the independent claims of the instant application. Therefore, Applicant submits that independent claims 1, 7, 12, 17, 21, 26, 30, 36, and 41 are patentable over Szoke in view of “Apple Developer Connection.” Claim 3, claim 11, claim 13, claim 19, claim 23, claim 28, claim 32, claim 40, and claim 42 depend from independent claims 1, 7, 12, 17, 21, 26, 30, 36, and 41, respectively. Applicant submits that claims 3, 11, 13, 19, 23, 28, 32, 40, and 42 are patentable over Szoke in view of “Apple Developer Connection” for at least the reasons stated above with respect to the independent claims of the instant application. Further, in view of the additional features of each of these dependent claims, Applicant respectfully submits that these claims may be allowable for one or more reasons in addition to and/or in alternative to those reasons identified above.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 3, 11, 13, 19, 23, 28, 32, 40, and 42, and the passing of these claims to issue.

Third § 103 Rejection of the Claims

Claims 10, 18, 20, 27, and 29 were rejected under 35 U.S.C. § 103(a) as being obvious over Szoke, in view of Tatge et al. (U.S. 5,293,630; hereinafter “Tatge”). Applicant traverses these grounds of rejection of these claims.

Applicant submits that combining Tatge with Szoke, as proffered in the Office Action, does not cure the deficiencies of citing Szoke with respect to independent claims 7, 17, and 26.

Therefore, Applicant submits that independent claims 7, 17, and 26 are patentable over Szoke in view of Tatge. Claim 10, claims 18 and 20, and claims 27 and 29 depend from independent claims 7, 17, and 26, respectively. Applicant submits that claims 10, 18, 20, 27, and 29 are patentable over Szoke in view of Tatge for at least the reasons stated above with respect to independent claims 7, 17, and 26. Further, in view of the additional features of each of these dependent claims, Applicant respectfully submits that these claims may be allowable for one or more reasons in addition to and/or in alternative to those reasons identified above.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 10, 18, 20, 27, and 29, and the passing of these claims to issue.

Fourth § 103 Rejection of the Claims

Claims 12, 15, 16, 41, 44, and 45 were rejected under 35 U.S.C. § 103(a) as being obvious over Szoke, in view of Sexton et al. (U.S. 6,434,685; hereinafter “Sexton”). Applicant traverses these grounds of rejection of these claims.

Applicant cannot find in the combination of Szoke and Sexton, as proffered in the Office Action, a disclosure or a suggestion of a method that includes “creating an executable object module that includes symbolic references to addresses in ones of a set of one or more separately compiled object modules, wherein the executable object module includes a page-aligned code segment and a page-aligned data segment, and wherein the object module includes resolved internal code-to-data offsets,” as recited in claim 12. In the Office Action, it is stated that

Szoke does not explicitly disclose:

- wherein the executable object module includes a page-aligned code segment and a page-aligned data segment, and wherein the object module includes resolved internal code-to-data offsets.

However, Sexton discloses a method for paged memory management system within a runtime environment that solves the page-aligned problem (Abstract).

However, this quote and the cited section of Sexton in combination with Szoke does not disclose and does not make obvious “wherein the executable object module includes a page-aligned code segment and a page-aligned data segment, and wherein the object module includes resolved

internal code-to-data offsets,” as recited in claim 12. No explanation is provided in the Office Action as to how this combination is related to all the elements of claim 12, taken as a whole.

Applicant cannot find in the combination of Szoke and Sexton, as proffered in the Office Action, a disclosure or a suggestion of a method that includes replacing, in an executable object module, symbolic references with addresses to a loader subroutine without instructions of the loader subroutine in the executable object module, as recited in claim 12. Szoke relates to a method in which a first load module may include call programs to call programs in a second load module. As shown in Szoke’s Figure 1, referenced in the Office Action, and discussed at column 2, lines 53-62, Szoke’s load module **LM-1** includes conventional programs **P11** and **P12** and program structure **110**. As shown in Szoke’s Figure 1, program structure **110** includes linkage program **130**, which indicates that Szoke’s load module **LM-1** includes linkage program **130**. In contrast, claim 12 recites that the linking instructions are in a loader subroutine separate from the executable object module where the method of claim 12 includes replacing symbolic references with addresses to the loader subroutine that is not included in the executable object module. Further, the combination of Szoke and Sexton also does not disclose or suggest the abovementioned features of claim 12. Therefore, Applicant submits that Szoke in view of Sexton does not teach all the elements of claim 12. Thus, Applicant submits that independent claim 12 is patentable over Szoke in view of Sexton.

For at least reasons similar to those discussed above with respect to claim 12, Applicant submits that claim 41 is patentable over Szoke in view of Sexton. Claims 12, 15, and 16 and claims 44 and 45 depend from independent claims 12 and 41, respectively. Applicant submits that claims 15, 16, 44, and 45 are patentable over Szoke in view of Sexton for at least the reasons stated above with respect to independent claims 12 and 41. Further, in view of the additional features of each of these dependent claims, Applicant respectfully submits that these claims may be allowable for one or more reasons in addition to and/or in alternative to those reasons identified above.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 12, 15, 16, 41, 44, and 45, and the passing of these claims to issue.

Assertion of Pertinence

Applicant has not responded to the assertion of pertinence stated for the patents cited, but not relied upon, by the Office Action since these patents are not relied upon as part of the rejections in this Office Action. Applicant is expressly not conceding they have any pertinence and reserves the right to respond more fully should any of them form a part of some future rejection.

CONCLUSION


Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 371-2157 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402--0938
(612) 371-2157


Date 29 December 2009

By 
David R. Cochran
Reg. No. 46,632

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 29th day of December, 2009.

David R. Cochran

Name


Signature